

## **TITLE 14. Fish and Game Commission**

### **Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 215, 220, 240, 315, 316.5 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 206, 215 and 316.5, of said Code, proposes to amend Section 5.51 and add subsection 7.50(b)(53.8), Title 14, California Code of Regulations, relating to Lake Davis sport fishing.

#### **Informative Digest/Policy Statement Overview**

Current sport fishing regulations for Lake Davis, Plumas County, are governed by the Sierra District general regulations, which allow for an open season all year with a daily bag limit of five trout and ten in possession. Also, current statewide regulations require that any northern pike taken by an angler must be immediately killed and retained until the Department is notified and collects the northern pike. The Department must be notified by the angler within 24 hours that a northern pike was taken.

The California Department of Fish and Game (Department) is considering a project to eradicate northern pike (*Esox lucius*) from Lake Davis in the fall of 2007. As of the date of this Initial Statement of Reasons, a project has not been approved. However, if one is approved that involves the use of rotenone, the Department would request the Commission adopt a regulation to modify the existing trout fishery regulation for Lake Davis, Plumas County, and the northern pike regulation for the State. The proposed regulation changes would: 1) temporarily increase the daily bag limit from five to ten trout per day, and 2) require any northern pike caught at Lake Davis, or its tributaries, to be immediately killed and returned to the tributary or lake, rather than be killed and turned in to the Department. The proposed effective date is May or June (or as soon as the regulatory process allows) and extend through a date between September 1 and October 15, 2007 whichever period of time in 2007 that would most appropriately fit with the project timeline. The possession limit would remain at ten trout. [Note: The exact ending date for the liberalized daily bag limit will be known by the Commission's March meeting, if a rotenone project is approved]. If a pike eradication project is implemented at Lake Davis, the proposed regulation that requires anglers to immediately kill and return to the lake any northern pike caught instead of being turned in to the Department would expire between September 1 and October 15, 2007 and the statewide pike regulation would again be in effect. Because of the time it would take for the Commission to notice, consider, and potentially adopt such a regulation, this regulatory proposal is being made prior to the approval of a pike eradication project and the effect of any such regulation would be contingent upon the approval of a project.

If the Department approves and implements a project to treat Lake Davis with a piscicide to eradicate northern pike, an illegally introduced species, most other fish species within the reservoir will also die. The liberalized limit for trout in the reservoir will allow for maximum use of this resource by anglers, which would otherwise be lost. The change in the pike regulation would still require that any pike caught in any water of California, other than Lake Davis, be killed immediately and turned in to the Department. At Lake Davis, an angler would not be allowed to possess a pike and the pike would have to be immediately killed and returned to the water.

Other species of game fish in the reservoir occur in low numbers and a regulation change for them would not result in any substantial benefit for anglers targeting these species at Lake Davis. Therefore, there are no changes proposed that would liberalize the bag limits for

species other than trout. The Department does not recommend regulation changes that would allow anglers to possess pike, as any liberalization of these regulations could have the effect of people moving live pike out of Lake Davis. The movement of live pike has occurred under the current regulations. Liberalizing the pike regulations would likely exacerbate this problem.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at Humboldt State University, Nelson Hall West, Goodwin Forum, 1 Harpst Street, Arcata, California, on March 2, 2007, at 8:30 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Bodega Bay Marine Laboratory Lecture Hall, 2099 Westside Road, Bodega Bay, California, on April 13, 2007, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before April 6, 2007 at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on April 9, 2007. All comments must be received no later than April 13, 2007, at the hearing in Bodega Bay, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Sherrie Koell at the preceding address or phone number. **Dr. Ed Pert, Lake Davis Pike Eradication Project Leader, Department of Fish and Game, phone (916) 445-3616, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

#### Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

### **Impact of Regulatory Action**

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This proposal provides more angling opportunity.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

- (h) Effect on Housing Costs: None.

### **Effect on Small Business**

It has been determined that the adoption of these regulations may affect small business.

### **Consideration of Alternatives**

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: February 6, 2007

John Carlson, Jr.  
Executive Director